

## ***Topsfield Conservation Commission***

### **Minutes for February 7, 2007**

Topsfield Library Conference Room

Present: Walter Harmer, Chair, Dylan Cadwalader, Wade Goldman, Ralph Stump (*arrived during the hearing for 44 Fox Run Road*), Tom Warren, and Lana Spillman, Administrator.

Absent: John Olcott.

*Note: These minutes were transcribed by Hilary Hafner.*

Harmer called the meeting to order at 7:07 p.m.

#### **HEARINGS:**

**Continuation NoI 307-0574: 44 Fox Run Road**, (Map 39, Lot 105), Jodi Osgood/Attorney Joseph Sano. The applicant has not provided the information that DEP has requested, a detailed site plan with areas of alteration shown and a restoration/planting plan for restoration. The Orders of Conditions will be for restoration of the Resource Areas. It was agreed that if restoration is not completed, an Enforcement Order will be issued. Cadwalader moved to close the hearing under the Act and Bylaw. The motion was seconded and passed unanimously. Cadwalader moved to issue separate Orders of Conditions under the Act and the Bylaw. This motion was seconded and also passed unanimously.

**Continuation NoI 307-0577: 35 Main Street**, (Map 41, Lot 34), Frank Iovanella/Daniel Butler. The revised plan was submitted previously. Harmer discussed the bio-garden and ways to remove the invasive Japanese knotweed. Stump provided articles on how to remove it and Spillman will pass the information on to Mr. Iovanella. A condition of the Order will allow them to burn or use chemical topical applications per product specifications and in accordance with all relevant laws. Cadwalader moved to close the hearing issue an OoC with Special Conditions under the Act and the Bylaw. The motion was seconded and passed unanimously.

**Continuation NoI 307-\_\_\_\_: 367 Boston Street**, (Map 26, Lot 15), LEXA, LLC/Dinart Serpa/McKenzie Engineering Group, Inc. The applicant had submitted a written request for a continuation of the hearing. TCC discussed the three proposals for peer review, which are mostly for review of the drainage. The DEP comment sheet states that since this is a redevelopment project, the work should result in an improvement over the existing capacity of the Riverfront Area to protect the interests of the Act. Also, native species of plants with habitat value should be used. It was agreed to ask the peer review engineer to do a brief preliminary review, discuss this with the Commission and the applicant's engineer, and then to commence with a more thorough review as directed by the Commission. After some discussion, Stump moved to hire BSC because of their viewed capacities in the past, because of the complexity of the project, and because of the Commission's experience with Dave Varga. The motion was seconded and passed unanimously. Stump then moved to continue to February 28<sup>th</sup> at the written request of the applicant's representative. This motion was also seconded and passed unanimously.

**Continuation NoI 307-0563: 28 Asbury Street**, (Map 21, Lot 16), Willowdale Lodge, LLC/Neve Morin Group, Inc. Warren moved to close the hearing and issue an OoC with Special Conditions under the Act and the Bylaw. The motion was seconded and passed unanimously.

#### **MEETINGS:**

**Continuation RDA 2006-16: 46 Perkins Row,** (Map 58, Lot 20), James Gillespie. Goldman recused himself. The Commissioners were to make site visits on their own, especially during rain events. Harmer said that, so far, he has found no issues. Warren moved to continue the meeting to February 28<sup>th</sup> in order for Commissioners to visit the site. The motion was seconded and passed unanimously.

**Continuation RDA 2006-18: 41 Surrey Lane,** (Map 23, Lot 3), Roy Cheever. Commissioners agreed that there should be pipe under driveway so does not flood onto abutting property and the asphalt and other debris on the side of the drive must be removed. Stump moved to close the meeting and issue a Negative Determination with conditions as discussed. The motion was seconded and passed unanimously.

#### **REQUESTS:**

**CoC Amended 307-0446: 29 River Road,** (Map 48, Lot 14), Ara Aftandilian. Cadwalader moved to deny the request at this time, to be reconsidered when the Conditions for a Certificate of Compliance have been met. The motion was seconded and passed unanimously.

#### **OLD BUSINESS, UPDATES & MISCELLANEOUS:**

**120 High Street, (Map 49, Lot 56), Hickory Beech Realty Trust/Joseph Falzone, Trustee** – review of proposed deed for Open Space and need for reference to Article 97 of the State Constitution. Harmer said that the deed should reference to Article 97 of the State Laws in order to preserve the property as conservation land. He advocated following David Santomenna's suggestions on this matter; Mr. Santomenna works for Greenbelt, the North Shore's best authority on this topic. Mr. Santomenna expressed a need for a reference to Article 97 in the deed and also advised that, due to problems it would cause, the land should not be conveyed to the Homeowners' Association. It was agreed that TCC's reasons for responding how they have should be made clear to all concerned. Spillman will contact Town Administrator Wilder in this regard.

**244 Ipswich Road,** (Map 21, Lot 6), William Niland, Jr. – update. TCC discussed whether it would be possible to fine Mr. Casey if his lack of maintenance of the drainage continues to be the cause of flooding.

**102 River Road,** (Map 47, Lot 49), Christopher & Alison Esposito/Essex County Greenbelt- house removal and mitigation area – update. Spillman reported that the house still appears to be occupied.

#### **ENFORCEMENT, APPEAL REPORTS, UPDATES:**

**Enforcement Order and Ticket #2007-01, (Violation Notices & Tickets #2006-27 & #2006-28), 26 Candlewood Drive,** (Map 42, Lot 37), Jeffrey Andrews and Lisa Kanaley-Andrews – to be ratified. Mr. Andrews was present. Harmer summarized the history of the violation. Mr. Andrews said he misunderstood when Harmer told him last August that he needed to file a NoI; he thought he needed to do so only if he went forward with his original plans. TCC explained that if he wished to appeal, he should do so with TCC before going to the District Court and granted that there is a clerical error on the ticket with regard to the date. TCC also clarified for Mr. Andrews that the ticket is under the Bylaw, not under the Act. Mr. Andrews said he will file a NoI and the Commission discussed with him what this would entail and what it should address, namely restoring the functions of the impacted Resource Areas. Mr. Andrews and the Commission discussed Mr. Andrew's plans for further work. Spillman will change the wording of the ticket form to make it clear that the various options are not mutually exclusive. She also will inform the Town Clerk that TCC is extending the Andrews'

deadline for paying the ticket. The E.O was discussed. Warren moved to ratify the E.O., but waive the \$200 fine. The motion was not seconded. Harmer asked that the Andrews file a NoI by the second Wednesday in March. Warren then moved to extend the terms of the E.O. and ticket in order to give the Andrews the opportunity to file the NoI by the end of March. The vote was not completed. The likely NoI fees were discussed as was whether or not Mr. Andrews may burn debris near the wetland. The terms and ratification of this EO was extended until February 28, 2007.

**OTHER:**

**Conversation with Selectman Dick Gandt regarding the Open Space at 120 High Street.** Harmer explained Greenbelt's comments, namely that it is very important to reference Article 97 in the deed and that the worst place for the property to go is under a landowners' association. Mr. Gandt said he sees it as a safety valve to put it under the Homeowner's association.

**ENFORCEMENT, APPEAL REPORTS, UPDATES, cont:**

**3<sup>rd</sup> Amended Enforcement Order: 64 Wenham Road & 255 High Street,** (Map 71, Lot 22 & Map 65, Lot 1), Stephen Bernstein. No update was given.

**Enforcement Order: 50 Prospect Street,** (Map 48, Lot 12), John Molloy/Hancock Associates – update. TCC has been informed that a new NoI is to be filed.

**Enforcement Order & Ticket #2006-15, OoCs 307-0462, 39 Prospect Street,** (Map 40, Lot 97), Eliot Sherr & Mary Ellen Gardiepy – update. The District Court upheld the \$2,400 fine. The fine has not been paid yet. The deadline for the engineer's proposal for stabilization and restoration has come and gone. Spillman spoke with Dr. Sherr's engineer, Bob Erbetta, today. He promised a rough sketch of his proposal to the TCC office by the end of next week and a written proposal by the end of February.

She summarized Mr. Erbetta's proposal – to have a series of terraces made up of stones from the site – directing flow back and forth down the slope – to slow down the flow of water. TCC questioned whether the proposed terraces would preclude the required access to the septic system. The Commission is concerned about the new disturbances that would be associated with implementation of the plan, especially removal of trees and other vegetation, and disturbance of soils on the steep slope, and they did not see value in the plan. Mr. Erbetta proposes not to clean out the mitigation pond while the ground is frozen because he does not know where the removed ice would be placed.

**Violation Notice & Ticket #2006-18: 42 Washington Street,** (Map 32, Lot 133), Matthew and Stephanie Maloney – update. A complaint was to be filed with District Court this week. Spillman said she has documented numerous attempts to gain compliance, including copies of letters she has sent.

**Amended Enforcement Order, Violation Notice & Ticket #2006-20: 221 Washington Street,** (Map 47, Lot 2), Andrzej Galka – update. A complaint was to be filed with District Court this week. Spillman has received no response from Mr. Galka in any way.

**Violation Notice and Ticket #2006-34, OoC 307-557, 27 Pemberton Road,** (Map 49, Lot 20), Nicholas Cox and Gia DeSantis – update. Ms. DeSantis told Spillman last Friday that they would pay the \$100 fine.

**Violation Notice and Ticket #2006-35, 107 Haverhill Road,** (Map 10, Lot 23), Brian Pray – update. The District Court Assistant Clerk Magistrate reduced the fine to \$275.

**Violation Notice and Ticket #2006-37, 242 Ipswich Road,** (Map 21, Lot 5), Christopher & Patricia Flaherty – update. The District Court decided that no fine is due.

**ADMINISTRATOR’S REPORT:**

**New Computer for Administrator – update:** No update was given.

**Town Flood concerns – committee, update:** The Ipswich River and its dams were discussed in brief.

**MACC Annual Conference – March 3 – signup:** The Commissioners signed up. Olcott cannot attend.

**Department Head Meeting:** The department heads are to submit monthly department reports to Town Administrator Ginna Wilder.

At 9:38 p.m. Warren moved to adjourn the meeting. The motion was seconded and passed unanimously.

Respectfully submitted,

Lana Spillman, Topsfield Conservation Administrator

*Approved at the TCC meeting on June 27, 2007.*